IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2031 OF 2005

Krishan Mohan Sarvashiddi ...Petitioner

Versus

M/s. Sampark Marketing and Advertising Solutions Pvt. Ltd. and another ...Respondents

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Mr. Ajay Panickar, Advocate for Petitioner

Mr. Nitin Mule i/b M/s. O.P. Soni & Co. Adv.for respondent No.1.

Mr. V.B. KOnde Deshmukh, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 7TH OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioner, the learned advocate for the respondent No.1 i.e. original complainant and the learned A.P.P. for the State.

2. The learned advocate for the petitioner states that at this stage, he is not pressing the prayer for transfer of the case and he seeks liberty to file separate application for the said prayer at later stage, if necessary. Liberty granted as prayed for.

3. The other prayer of the petitioner is for quashing of process issued against him in Criminal Case No.87/2005 which is pending in the Court of learned Chief Judicial Magistrate, Kolhapur. In the said case, process has been issued against the petitioner under Section 138 of Negotiable Instruments Act.

4. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap Vs. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

5. Liberty is granted to the petitioner to prefer revision before the concerned Sessions Court. The learned advocate for the petitioner states that the necessary revision would be preferred within a period of six weeks from today. I am informed that the date before the trial Court is on 15.11.2005. In view of this statement, the trial Court shall not proceed with the trial on 15.11.2005 and for a period of one week thereafter. The learned advocate for the respondent No. 1 i.e. original complainant fairly

states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge.

6. The petitioner is also seeking quashing of non bailable warrant issued against him by the trial Court by order dated 18.5.2005. I am not inclined to quash the said warrant, however, I am inclined to stay the said warrant till the revision preferred by the petitioner before the concerned Sessions Court is disposed of. Hence, the non bailable warrant issued by the learned Magistrate against the present petitioner are stayed till the revision preferred by the petitioner before the concerned Sessions Court is disposed of.

7. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

8. Writ Petition is disposed of.

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